7080726/2023/VIG-III-MAU01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – MA&UD Department – Allegation of Corruption against Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat, Erstwhile Kurnool District – Convicted by the Special Judge for Trial of SPE & ACB cases of Kurnool in C.C.No.07 of 2016, dt.25.06.2019 – Dismissal from service – WP No.16480/2019 & C.C.No. 221 of 2020 filed before the Hon'ble High Court – Orders of High Court - Individual reinstated into service - Orders – Issued.

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G.O.Rt.No.146 **Date: 06.03.2023**

Read the following :

1. From the DSP, ACB, Kurnool Range, Kurnool, Radio Message, dt.15.09.2014.
2. G.O.Rt.No.766, MA&UD (Vig.IV.1) Dept., dt.30.09.2014.
3. From the DG, ACB, RC.No.222/RCT-KUR/2014, dt.18.09.2015.
4. G.O.MS.No.5, MA&UD (Vig.I) Dept., dt.13.01.2016.
5. G.O.Rt.No.140, MA&UD (Vig.I) Dept., dt.24.06.2016.
6. From the DG, ACB, Vijayawada, Lr.RC.No.222/RCT-KUR/2014, dt.05.07.2019.
7. From the DG, ACB, Vijayawada, Lr.RC.No.222/RCT-KUR/2014, dt.15.07.2019.
8. Judgement of the Hon'ble Special Judge for Trial of SPE & ACB Case, Kurnool in CC No.7/2016, dt.25.06.2019.
9. From the Hon'ble High Court of A.P, CRLA No.537 of 2019 IA of 2019, dt.05.7.2019.
10. G.O.Rt.No.598 MA&UD (Vig.III-1) Department, dt.17.09.2019.
11. Orders of the Hon'ble High Court in W.P.No.16480 of 2019, dt.22.10.2019.
12. W.A.No.54 of 2021 against the orders in WP No.16480/2019, dt.22.10.2019.
13. CC.No.221 of 2020 filed by Sri A.Tarakanth, former MC, Banaganapally Nagar panchayat, Kurnoool district.
14. Orders of Hon'ble High Court of AP in its in WA No.54 of 2021 in CC No.221 of 2020, dt.18.10.2022.
15. Representation received from Sri A.Tarakanath, former MC, Banaganapally Nagarapanchayat (Dismissed), dt.08.11.2022.
16. Orders, dt.03.02.2023 of the Supreme court in Special leave to appeal (C) No.1858-1859/2023.

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ORDER :

Whereas, Sri A. Tarakanath (AO-1) Municipal Commissioner Banaganapally Nagarapanchayath was trapped by the Anti Corruption Bureau authorities, Kurnool Range, Andhra Pradesh on the allegation of demand and acceptance of bribe amount of Rs. 5,000/- from the complainant on 10.09.2014 for issuing proceedings for building plan approval for constructions of house in the site belonging to the mother-in-law of the complainant's elder brother, vide reference 1st read above. Accordingly, Sri A.Tarakanath, Municipal Commissioner, Banaganapally Nagarpanchayat has been placed under suspension (deemed) from the date of his detention i.e., 11.09.2014 in terms of Rule 8 (2)(a) of the APCS (CC&A) Rules, 1991, vide reference 2nd read above.

2. And whereas, in the reference 3rd read above, the Director General, Anti Corruption Bureau, Hyderabad furnished the final report and recommended to prosecute Sri A. Tarakanath (AO-1) Municipal Commissioner Banaganapally Nagarapanchayath in a court of law. The final report of the DG., ACB has been examined carefully and prosecution orders were issued against the above individual, vide reference 4th read above. Based on the recommendations of the Committee on review of suspension cases relating to ACB cases, in consultation with the advisory authority, orders were issued reinstating Sri A.Tharakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat into service without prejudice to the criminal case pending against him and to post him in a far of and non-focal post, vide reference 5th read above.

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3. And whereas, the DG, ACB, Vijayawada, vide reference 6th read above informed that the Spl. Judge for Trial of SPE & ACB, Kurnool, delivered judgment on dt.25.06.2019 in C.C.No.07/2016 convicting Sri A.Taraknath, former Municipal Commissioner, Banaganapally Nagarapanchayat, Kurnool District and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs 5,000/- for the offence punishable u/s.7 of P.C. Act,1988 and in default of payment to undergo simple imprisonment for three months and further sentenced him to undergo rigorous imprisonment for two years for the offence punishable U/S 13(2) r/w 13 (1) (d) of P.C. Act,1988 and to pay a fine of Rs.5,000/- and in default of payment of fine amount to undergo simple imprisonment for three months. Total fine amount is Rs.10,000/-. Both the sentences shall run concurrently, vide reference 8th read above.

4. Aggrieved by above judgement, the individual filed Criminal Appeal No 537/2019 in the Hon'ble High Court and the Hon'ble High Court in its interim orders, dt.15.07.2019, suspended the sentence of imprisonment alone in CC No.7 of 2016, dt.25.06.2019 passed by the Special Judge for Trial of SPE & ACB Cases at Kurnool, vide reference 9th read above.

5. Government have carefully examined the matter and observed that Sri A. Taraknath former Municipal Commissioner, Banganapalli Nagar Panchayat was found guilty for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and convicted under Section 248(2) of the Code of Criminal Procedure, 1973 and sentenced to sufferrigorous imprisonment for two years and pay a fine of Rs.5,000/ by the Special Judge for SPE & ACB cases, Kurnool in C.C.No.7 of 2016 Dt.25.06.2019.

6. And whereas, orders were issued in G.O. Ms.No.2, GAD, dt.04-01-1999 read with G.O.Ms.No.458 GAD, dt.22-9-2009 ordering that in all proved cases of Corruption, the penalty of dismissal from service shall be imposed.

7. And whereas, Government imposed the penalty of dismissal from service against Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayath, Kurnool District in terms of rule 25(i) read with rule 9(x) of the APCS (CCA) Rules, 1991, vide reference 10th read above.

8. And whereas, Sri A.Taraknath filed a WP No.16480/2019 in the Hon'ble High Court of AP with a prayer to set-aside the dismissal orders issued by Government, in G.O.Rt.No.598, MA&UD Dept., dt.17.09.2019. The Hon'ble High Court, vide their orders, in WP.No.16480 of 2019, dt.22.10.2019 set aside the above dismissal orders on the ground that no enquiry was conducted for the dismissal of petitioner, which is a major punishment and also directed the respondents to initiate disciplinary proceedings and take action by following due procedure of law, vide reference 11th read above.

9. And whereas, Government filed Writ Appeal No.54 of 2021 before the Hon'ble High Court against the orders in WP No.16480/2019, dated.22.10.2019. In the meanwhile, Sri A.Tarakanath, former MC (Dismissed) filed CC No.221 of 2020 for not implementing the orders, dt.22.10.2019 in WP No.16480/2019. The Hon'ble High Court has delivered the following common judgment in WA No.54 of 2021 and CC No.221 of 2020 dt.18.10.2022, vide reference 14th read above.

> ".....While the power is available to the State to pass such orders as it deems fit in the circumstances of the case, this Court is of the opinion that the impugned order does not reveal or furnish any indication to conclude how and why or for what reasons the order of dismissal came to be passed. There is no discussion about the gravity of the offence or the seriousness of the offence etc., Rule 25 clearly mandates that the disciplinary authority must consider the "circumstances" of the case before coming to the conclusion. Paragraph-2 of the order, which is detailed above, merely states that the State has considered that his

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conviction warrants imposition of dismissal from service. In the opinion of this Court, the impugned order does not show or speak of the satisfaction of the disciplinary authority or the consideration of the circumstances. In that view of the matter, the Writ Appeal is dismissed. No costs. It is, however, reiterated that this order will not preclude the appellant-respondent to take necessary action as warranted by law, but within a period of 60 days. Till the said action is taken the respondent-writ petitioner shall be taken back into service only for the purpose of enabling the State to decide on the future course of action".

10. And whereas, Government have filed Special Leave to Appeal (C) No.1858- 1859/ 2023 in Supreme Court of India against the above orders, dt.18.10.2022 in W.A.No.54/2021 and C.C.No.221 of 2020 of the Hon'ble High Court and it was dismissed by the Apex court in its orders, dt.03.02.2023.

11. Government after careful examination of the orders of the Hon'ble Supreme Court of India and Hon'ble High Court of Andhra Pradesh, hereby reinstate Sri A.Tarakanath, former Municipal Commissioner, Banaganapally Nagarapanchayat into service and place him under deemed suspension with effect from 17.09.2019, i.e., the date of original order of dismissal, under Rule8(4) of the A.P. Civil Services (CC&A) Rules, 1991. He will be entitled to subsistence allowance @50% of his pay, D.A., and other compensatory allowances, as per Rules during the period spent under deemed suspension.

12. The Commissioner and Director of Municipal Administration, A.P., Vaddeswaram shall take necessary action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Y.SRILAKSHMI
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner and Director of Municipal Administration,
A.P., Vaddeswaram.
Sri A.Tarakanath, former Municipal Commissioner (Under orders of Dismissal), Banaganapally Nagarapanchayat, Erstwhile Kurnool District **through** the CDMA, AP. The RDMA, Anantapur.

Copy to :
The Director General, Anti Corruption Bureau, Vijayawada.
The Secretary to Vigilance Commissioner, APVC, Velagapudi.
The Accountant General, AP, Vijayawada.
The Government Pleader for Ser-IV, MA&UD Dept., APHC, Amaravathi.
Sc/Sf (E 59412)

// FORWARDED :: BY ORDER //

SK Nazeer
SECTION OFFICER

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